

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendray
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of CenterPoint
Energy for Authority to Increase Natural Gas
Rates in Minnesota

ISSUE DATE: March 6, 2006

DOCKET NO. G-008/GR-05-1380

ORDER MAKING PRELIMINARY
DETERMINATION OF ELIGIBILITY FOR
INTERVENOR COMPENSATION

PROCEDURAL HISTORY

On January 26, 2006, Energy CENTS Coalition (“ECC”) filed its request for compensation in this matter pursuant to Minn. Rules, Part 7831.0300.

On February 10, 2006, the Minnesota Department of Commerce (the Department) submitted a letter responding to ECC’s request.

On February 14, 2006, CenterPoint filed a letter recommending the Commission look closely at ECC’s claimed intervention costs at the end of the proceeding.

On February 17, 2006, Suburban Rate Authority (“SRA”) submitted a letter supportive of ECC’s request for compensation.

On February 28, 2006, the Commission met to consider this matter. The Residential Utilities Division of the Department of the Attorney General (“RUD-OAG”) appeared at the oral argument in support of ECC’s request.

FINDINGS AND CONCLUSIONS

I. Background

Minn. Stat. § 216B.16, subd. 10, allows the Commission to order a utility to pay an intervenor up to \$20,000 for participating in a proceeding if the intervenor has materially assisted the Commission and the intervenor has insufficient financial resources to afford the cost of intervention.

Minn. Rules, Parts 7831.0100 through 7831.0800 represent the established procedures under which a request for intervenor compensation, and later a claim for that compensation, is made to the Commission.

Generally, the rules require that an intervenor requesting intervenor compensation file a request for compensation within 75 days of the filing or 30 days before the evidentiary hearings. That filing must provide general information about the intervenor, and evidence that “. . . but for an award of compensation for its intervenor costs . . .” the intervenor would have insufficient financial resources to intervene and participate effectively in the proceeding. The rule requires that certain minimum financial information be supplied. The intervenor must state the nature and extent of planned participation in the proceeding as far as it is possible to do so at the time of the filing. Other parties have 15 days to respond to the request.

Under Minn. Rules, Part 7831.0500, the Commission must issue a preliminary determination addressing the eligibility of the intervenor for compensation within 45 days of the filing of the request for a preliminary determination. The rule identifies two specific items that the determination must address: whether the applicant is an intervenor; and whether a showing of insufficient financial resources has been made.

Discretionary determinations that the Commission may choose to undertake include: the intervenor’s ability to materially assist the Commission; duplicate positions or whether the positions could be more efficiently presented under common representation; use of common legal counsel and witnesses; listing of other known applicants with similar positions; pointing out unrealistic expectations for compensation; and addressing other information which may affect the applicant’s claim.

Under the rule, the preliminary determination does not guarantee the award of compensation. The intervenor must file a claim for specific compensation after the proceeding is completed at which time the Commission will again review the financial status of the intervenor and address whether the intervenor materially assisted the Commission in its deliberations in the rate proceeding.

II. ECC’s Request for Compensation

ECC represents low and fixed income utility customers in Minnesota. ECC designs, evaluates and administers low-income bill payment and conservation assistance programs. ECC develops these programs and advocates for them to increase the ability of low-income customers to pay utility bills and to reduce utility service disconnections and collection costs.

ECC stated that in this proceeding it will argue for a comprehensive and significant low-income bill payment assistance and arrearage forgiveness program. ECC’s proposal would seek to prevent service disconnections due to inability to pay and reduce CenterPoint’s bad debt expense. ECC stated that it will offer alternative strategies to CenterPoint’s bad debt cost recovery proposal, aimed at preventing the accumulation of bad debt expenses. Finally, ECC asserted that its proposals would encourage CenterPoint customers to stay connected to the CenterPoint system. ECC provided the general information required by the intervenor compensation rule, including the names and addresses of its board members (including officers and executive committee members), a description of its mission and purpose, and a list of member organizations. ECC also submitted a letter from the Internal Revenue Service confirming ECC’s tax exempt status under section 501(c)(3) of the Internal Revenue Code and a copy of the annual renewal of ECC’s registration as a Minnesota non-profit corporation under Minn. Stat. Ch. 317A.

ECC stated that its discretionary funds, as of November 30, 2005, were less than \$20,000. ECC had a \$1,900 balance in its general fund account, and approximately \$18,000 in undesignated deferred revenue.

ECC budgeted rate case intervention costs of approximately \$26,300, for which it seeks \$20,000 of intervenor compensation. The \$6,300 difference and any cost in excess of \$26,300 will come out of ECC's general fund balance.

ECC stated that it has insufficient financial resources to intervene and participate without compensation. ECC indicated that it has a limited amount of discretionary funding available, with most of its funding designated to specific projects. ECC stated that its participation in this case involves substantial risk because without an award of intervenor compensation, ECC would be forced to utilize nearly all of its general operating and undesignated revenue funds, which would preclude ECC from participation in any other regulatory proceeding or advocacy project.

III. Commission Analysis

In making a preliminary determination whether an applicant is eligible for an award of compensation of intervenor costs, the Commission must determine

- 1) whether ECC is an intervenor as defined in Minn. Rules, Part 7831.0100, and
- 2) whether the applicant has made a sufficient showing that, but for an award of compensation for all or part of its intervenor costs, it has insufficient financial resources to intervene and participate fully and effectively in the proceeding.

A. Intervenor Status

The definition of "intervenor" under Minn. Rules, Part 7831.0100 includes a person who is or has been permitted by order of the presiding officer to intervene in a proceeding. In this case, the Commission has referred CenterPoint's rate case for contested case proceeding to the Office of Administrative Hearings (OAH) which has, in turn, assigned the matter to an Administrative Law Judge (ALJ). The ALJ, therefore, is a presiding officer for this matter within the meaning of the rule. In a Prehearing Order issued January 20, 2006, the ALJ identified ECC as an intervenor in this matter.

Accordingly, the Commission finds that ECC is an intervenor for purposes of this preliminary determination of eligibility.

B. Insufficient Financial Resources

Minn. Rules 7831.0300, subp. 3, requires the applicant to make a showing of insufficient financial resources in its request for compensation. ECC provided a listing of actual revenues and expenses (profit and loss) for calendar year 2004 and year-to-date through November 2005. ECC also provided actual assets and liabilities (balance sheet) as of December 31, 2004, and November 30, 2005.

At this stage of proceedings, the Commission assumes that all information in the request filing is true and accurate. Minn. Rules, Part 7831.0500, subp. 1B. In addition, the Commission clarifies that the determination it is required to make at this time is preliminary. At the close of this rate case, ECC must file a claim for compensation pursuant to Minn. Rules, Part 7831.0600.

Thereafter, an award or denial of compensation will be made, pursuant to Minn. Rules,

Part 7831.0800, on the basis of the Commission's determination regarding:

- 1) whether the intervenor has materially assisted the Commission and
- 2) whether the intervenor has shown that it has insufficient financial resources, but for the award, to afford all or part of its intervenor costs necessarily incurred to participate effectively in the proceeding.

With respect to the financial capacity issue, the Commission notes that prior to its final decision regarding the claim, the Commission may conduct such financial review as is appropriate pursuant to Minn. Rules, Part 7831.0700.

With the limited scope of its determination thus clarified, the Commission finds that ECC has made a sufficient showing, for this stage of the proceedings, on the insufficient financial resources issue.

The Commission finds that a preliminary determination of the discretionary factors listed in Minn. Rules, Part 7831.0500 would not be useful to the Commission in this proceeding. The Commission has examined the two factors required for a preliminary determination of eligibility: the intervenor's status and the sufficiency of the applicant's resources. ECC has met the requirements of both factors. The Commission therefore grants ECC a preliminary determination of eligibility for intervenor compensation.

ORDER

1. The Commission grants a preliminary determination of eligibility for intervenor compensation to ECC.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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